

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF PENNSYLVANIA

DELAWARE MARKETING PARTNERS, LLC,
a Delaware limited liability company,
Plaintiff

v.

CREDITRON FINANCIAL SERVICES, INC.,
a Pennsylvania corporation, and
TELATRON MARKETING GROUP, INC.,
a Pennsylvania corporation,
Defendants

Case No. 04-263 Erie

Deposition of TRISHA DESANTI-BOEHM, taken
before and by Sondra A. Black, Notary Public in
and for the Commonwealth of Pennsylvania, on
Wednesday, May 24, 2006, commencing at 9:32 a.m.,
at the offices of Elderkin Martin Kelly & Messina,
150 East Eighth Street, Erie, Pennsylvania 16501.

For the Plaintiff:

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Reported by Sondra A. Black
Ferguson & Holdnack Reporting, Inc.

Delaware Marketing Partners, LLC v. Creditron Financial Services, Inc.

Trish DeSanti-Boehm

<p style="text-align: right;">Page 10</p> <p>1 Q. Are you saying that either Mr. or Mrs. Cavotto 2 drafted Paragraph 7 of the agreement?</p> <p>3 A. Yes.</p> <p>4 Q. Did you review the entire agreement before it was 5 signed?</p> <p>6 A. No, I didn't.</p> <p>7 Q. Do you know whether any other counsel was asked to 8 review the agreement?</p> <p>9 A. No, I don't.</p> <p>10 Q. In any discussions or other types of communications 11 that you've had with any representative of Delaware Marketing 12 Partners, did you ever tell any of those individuals that 13 Telatron was not a corporation validly existing and in good 14 standing under Pennsylvania law?</p> <p>15 A. I never had a discussion that encompasses that 16 topic.</p> <p>17 Q. I'm sorry, just because of the connection I didn't 18 hear your entire answer. You started to -- you did tell me 19 that Telatron was a fictitious name for what company?</p> <p>20 A. Creditron Financial Corporation.</p> <p>21 Q. And is Creditron Financial Corporation a different 22 company, a different entity, than Creditron Financial 23 Services, Inc.?</p> <p>24 A. Yes, it is.</p> <p>25 Q. Are you familiar with the relationship, if any,</p>	<p style="text-align: right;">Page 12</p> <p>1 A. It is the only thing that deviates, basically, from 2 the collection aspect of things, and I have no idea why the 3 choice was made to put Academic Lending Center in that 4 category. It wasn't my decision.</p> <p>5 Q. Who's decision was it?</p> <p>6 A. Joyce and Al Cavotto I assume, but I have no idea.</p> <p>7 Q. Do you know how long Academic Lending Center has 8 been in existence?</p> <p>9 A. August 2002.</p> <p>10 Q. Do you know why it was created?</p> <p>11 A. To do a total turnkey operation for the third party 12 marketing of student loan consolidations.</p> <p>13 Q. And was it solely in anticipation of the arrangement 14 with Delaware Marketing Partners that Academic Lending Center 15 was created?</p> <p>16 A. No. In fact, the trademarks were requested in -- 17 well before the contract was ever entered into.</p> <p>18 Q. Just to be sure I'm clear, I'm not necessarily 19 limiting the question to when the contract or agreement was 20 entered into, but rather, when discussions first began with 21 Delaware Marketing Partners. So just to be clear, would it 22 be fair to say that the trademark information that you 23 mentioned was sought or started before you even had -- and 24 "you" meaning any of the parties on the Creditron Telatron 25 side -- had any discussions with Delaware Marketing?</p>
<p style="text-align: right;">Page 11</p> <p>1 between Creditron Financial Corporation and Creditron 2 Financial Services, Inc.?</p> <p>3 A. I am.</p> <p>4 Q. Could you explain it for me, please.</p> <p>5 A. They have -- I guess the easiest way to say it is, 6 they have -- they share shareholders. Mr. and Mrs. Cavotto 7 work with both companies. Creditron Financial Services, Inc. 8 basically handles the collection side and things of that 9 nature, whereas Creditron Financial Corporation really 10 concentrates on the marketing of financial products, 11 specifically telemarketing.</p> <p>12 Q. Can you explain to me, please, the relationship 13 between Academic Lending Center and Creditron Financial 14 Services, Inc.</p> <p>15 A. Sure. Academic Lending Center is a fictitious name 16 for Creditron Financial Services, Inc., and the purpose is 17 third party marketing of student loan consolidations.</p> <p>18 Q. I'm a little confused, and I'm hoping you can clear 19 up the confusion that I have. If Creditron Financial 20 Corporation is a marketing-type company and Creditron 21 Financial Services is on the collection side, why would 22 Academic Lending Center be, for want of a better term, 23 affiliated with Creditron Financial rather than Creditron -- 24 I'm sorry, Creditron Financial Services, Inc. rather than 25 Creditron Financial Corporation?</p>	<p style="text-align: right;">Page 13</p> <p>1 A. No. The trademarks weren't done before that, but 2 Academic Lending Center was not created solely for this 3 relationship.</p> <p>4 Q. Before the agreement with Delaware Marketing 5 Partners was entered into, did Academic Lending Center 6 actually get involved in the area that it was formed for? In 7 other words, did it do any business?</p> <p>8 A. No. It hadn't done any business at that point.</p> <p>9 Q. Was the first business that Academic Lending Center 10 did a part of or a follow-up through the marketing agreement 11 with Delaware Marketing Partners?</p> <p>12 A. It was the first business we did, but not the first 13 business we actually sought.</p> <p>14 Q. I'm going to ask local counsel, Mr. Grimsley, to 15 show you a document which I've stamped Pages 246 to 248, and 16 it's entitled, "Received by ALC from Brazos".</p> <p>17 A. Okay.</p> <p>18 Q. Have you ever seen this document before?</p> <p>19 A. Yes.</p> <p>20 Q. This is one of the documents that you discussed with 21 Terry Smith and Joyce Cavotto?</p> <p>22 A. Yes.</p> <p>23 Q. Can you tell me who prepared this document.</p> <p>24 A. Our financial control department.</p> <p>25 Q. Any specific individual?</p>

4 (Pages 10 to 13)

<p style="text-align: right;">Page 22</p> <p>1 nonsub INT, and late fees. Does that sound familiar to you 2 at all?</p> <p>3 A. It does sound familiar to me, and that would be -- 4 that would be the disbursement rosters that Brazos used to 5 create their payments to us, but that's not actually the 6 document I'm talking about.</p> <p>7 Q. Then I see a document that says, "64 borrowers and 8 then a dollar amount; total disbursed; a dollar amount, 9 non-Brazos; a dollar amount, Brazos; an amount for AB, it 10 looks like maybe one or I, and then a premium; and then a 11 percentage of non-Brazos; then there's reduced premium; full 12 premium rate times percentage non-Brazos.</p> <p>13 A. That's the document.</p> <p>14 Q. That's the wire transfer document?</p> <p>15 A. Yeah.</p> <p>16 Q. Then someone wrote ".50 LOC." Do you know what that 17 might refer to?</p> <p>18 A. No. I have no idea.</p> <p>19 Q. But you weren't, in your role, writing anything on 20 these wire forms, correct?</p>	<p style="text-align: right;">Page 24</p> <p>1 Q. Is the August 20, 2002 letter a letter signed by AD 2 Cavotto, CEO?</p> <p>3 A. That's correct.</p> <p>4 Q. Are there any other documents, other than the August 5 20, 2002 letter and the Student Loan Origination and 6 Marketing Agreement, that would refer to or describe the 7 services to be provided by Delaware Marketing Partners?</p> <p>8 A. I don't think so.</p> <p>9 Q. In the Answer to the Complaint, in Paragraph 7, the 10 sentence, "It is admitted that the Plaintiff was hired to 11 perform certain specified services for the Defendants." Do 12 you have any understanding of the word "hired" and what it 13 means?</p> <p>14 A. That they were to perform certain services and we 15 would give them a portion of the revenue for performing those 16 services.</p> <p>17 Q. Paragraph 8 of the Answer states, "It is denied that 18 Plaintiff fulfilled all of its obligations and duties." To 19 your knowledge, are the obligations and duties which it's 20 alleged that the Plaintiff failed to fulfill the obligations</p>
<p>21 A. Correct. The only time I saw them was in compiling 22 discovery.</p> <p>23 Q. Good enough. Thank you. Paragraph 7 of the 24 Complaint states, "On September 1, 2002, the parties entered 25 into a Student Loan Origination and Marketing Agreement</p>	<p>21 and duties that are listed in the Student Loan Origination 22 and Marketing Agreement?</p> <p>23 A. The agreement and the corresponding exhibit, yes.</p> <p>24 Q. Let's take them one by one. Please tell me what 25 obligation and duty the Plaintiff had that it failed to</p>
<p style="text-align: right;">Page 23</p> <p>1 whereby the parties agreed to work together to perform 2 student loan acquisition services." And the answer to the 3 Complaint, Paragraph 7, says, "Denied as stated. The Student 4 Loan Origination and Marketing Agreement was signed by the 5 parties in February 2003," and it has some legal stuff like 6 the agreement speaks for itself. Then there's a sentence 7 that says, "It is admitted that the Plaintiff was hired to 8 perform certain specified services for the Defendant." Do 9 you know what those certain specified services were?</p> <p>10 A. Yes.</p> <p>11 Q. Did you say yes?</p> <p>12 A. Yes.</p> <p>13 Q. Would you please describe them for me.</p> <p>14 A. List acquisition analysis, direct marketing 15 campaigns, advertise for the ALC program.</p> <p>16 Q. Anything else?</p> <p>17 A. No. That was primarily all.</p> <p>18 Q. Is there any document, other than the Student Loan 19 Origination and Marketing Agreement, along with any exhibits 20 attached to it, that would describe these services that 21 you've just listed?</p> <p>22 A. There's no other contracts, but there was a letter 23 from August 20th of 2002 to Delaware Marketing that I think 24 outlined that. But there was no other contractual 25 agreements.</p>	<p style="text-align: right;">Page 25</p> <p>1 fulfill.</p> <p>2 MR. MARKHAM: You're speaking about her knowledge 3 of this, right?</p> <p>4 MR. SNYDERMAN: I couldn't ask for anybody else. 5 Absolutely.</p> <p>6 A. I guess the easiest way to start it is --</p> <p>7 MR. GRIMSLEY: If we're going to show documents, at 8 least discuss it with counsel on the phone.</p> <p>9 MR. MARKHAM: Wait a minute. We're going to show 10 her the contract and exhibit.</p> <p>11 MR. SNYDERMAN: That's fine.</p> <p>12 A. I guess I'll start with the exhibit. Prospect lead 13 acquisition, it's true that they gave us leads. Our concern 14 was that, beginning in April of 2003, the quality of those 15 leads began to diminish. Additionally, as we hit around the 16 September, October, November, December time frame, the 17 quality of the leads deteriorated quite rapidly and quite 18 significantly. So that would have been one issue.</p> <p>19 Second was the direct mail campaigns. We did two 20 direct mail campaigns, neither of which came anywhere near 21 the target that was projected to us. So, of course, that was 22 an issue. As was the fact that there was no other direct 23 marketing initiatives that took place after that.</p> <p>24 There's also a discussion of credit bureau 25 relationships. I guess that was done.</p>

<p style="text-align: right;">Page 26</p> <p>1 Analyst recommendations, I'm not really sure what 2 was done on this end. Nothing that we see, I guess. 3 The marketing plan and recommendations, I guess they 4 gave some of those, and we took them. 5 Marketing management assignments, I don't believe we 6 gave them anything else, other than they were to engage in -- 7 engage in advertising on behalf of the Academic Lending 8 Center program, which never occurred. 9 And I just want to look at the contract really 10 quick. I guess that would be it in a nutshell. 11 Q. With respect to the prospect lead acquisition that 12 you mentioned -- again, I want to make sure that I heard you 13 correctly -- did you say that it was April of 2003 when the 14 quality of the leads began to diminish? 15 A. That's correct. And I guess I should clarify that. 16 April 2003 more so as, I guess, the quality of leads 17 diminished. What I'm talking about there is the fact that 18 the number of leads that we were receiving from Delaware 19 Marketing versus the number of leads that we were actually 20 able to use from what we received continued to diminish. In 21 the beginning months, the first few buys we were able to use 22 90, 95 percent of those leads, and in April, I think we 23 dropped down significantly to about 50 percent of the leads 24 they had provided to us were not able to be used. 25 Q. Why were they not able to be used?</p>	<p style="text-align: right;">Page 28</p> <p>1 analyzing them. But I don't -- I haven't seen any direct 2 documents. 3 Q. You mentioned direct mail campaigns. And I believe 4 you said that there were two campaigns and neither came close 5 to what had been projected; is that correct? 6 A. That's correct. 7 Q. What was projected? 8 A. Alan had provided us with a projection on the direct 9 mail campaigns that, for instance, our response rate would be 10 somewhere around 1.3, it might even go as high as 2 percent. 11 Also said, I believe -- I want to say 45 percent of the 12 applications for which we took we would actually receive 13 signed documentation back. We didn't come anywhere near 45 14 percent return rate. I believe that the campaigns ended 15 somewhere around .3 and .5. 16 Q. When did the first campaign end? 17 A. I don't know when it ended. I know it began in 18 March of 2003. 19 Q. Do you know when the second campaign started? 20 A. June of 2003. 21 Q. I'm sorry? 22 A. June of 2003. 23 Q. Do you have any knowledge as to why the Defendants 24 would start a second campaign in June of 2003 if Defendants 25 were aware by April of 2003 that there were problems with the</p>
<p style="text-align: right;">Page 27</p> <p>1 A. A lot of them were duplicates. Meaning, we had 2 already had them, contacted them before, and gotten a 3 response from them. 4 Q. Do you know whether anyone on behalf of the 5 Defendants' side notified anyone from the Plaintiff's side 6 that there was dissatisfaction with the quality of the leads? 7 A. I personally did not discuss that with Delaware 8 Marketing until late in the fall of 2003, and that's all I 9 can speak to. I -- but I am aware that others maintain that 10 they have -- they did talk to Delaware Marketing about it. 11 Q. In reviewing any of the documents in connection with 12 this litigation, did you come across any documents that refer 13 or relate to the issue of the diminishing quality of the 14 leads? 15 MR. MARKHAM: I want to make sure the witness 16 understands that you're asking her about documents 17 that refer to it and documents which relate to it. 18 I mean, there are two different types of records, I 19 think. 20 Q. The witness can answer. 21 A. Well, I know that there was reporting that was 22 provided to Delaware Marketing. So those documents would, of 23 course, relate to it. We also sent flash reports, which 24 would have -- that piece of information would have been, you 25 know, ascertained from there if Delaware Marketing was</p>	<p style="text-align: right;">Page 29</p> <p>1 leads that were given? 2 A. No. I have no idea. I don't know how the direct 3 mail worked as far as whether those were -- it was a residual 4 mailing. I don't know. 5 Q. Paragraph 9 of the Answer states, in part, that, "As 6 a condition precedent to any payment, the Plaintiff was 7 obligated to properly perform certain specified work and 8 services." Can you tell me where, in any of the documents, 9 it states that there's a condition precedent to payment? 10 MR. MARKHAM: Chuck, let me do this: Let me get my 11 copy of the answer. I don't have it here in the 12 room. 13 MR. SNYDERMAN: Sure. 14 MR. MARKHAM: We're back. 15 MR. SNYDERMAN: Let me know when the witness has 16 the answer. 17 MR. MARKHAM: She's looking at it now. 18 Q. I'm talking about Page 3, Paragraph 9. Feel free to 19 read the entire paragraph if you wish. I'm specifically 20 referring to the third sentence, which begins, "As a 21 condition precedent." 22 A. Okay. 23 Q. Can you tell me where, in any of the contractual 24 documents, there's a reference to a condition precedent to 25 payment?</p>

<p style="text-align: right;">Page 30</p> <p>1 A. I think it's our -- that's based on our 2 interpretation and understanding of Section 4 in the exhibit, 3 on Page 3, the allocation of program revenues where we 4 outline that the defenses provided -- for the services 5 provided Telatron would distribute funds in the following 6 manner. 7 Q. And the problem with the lead and the quality of the 8 leads started in April of 2003. Were there any problems with 9 the services provided by Delaware Marketing Partners prior to 10 April of 2003? 11 A. I think there was an overall problem with our 12 understanding of the program based on our representations 13 made by Delaware Marketing which put us in a significant cash 14 flow situation. So much so that in November, a month or so 15 after we started the program, we laid off about 70 employees 16 because we couldn't make payroll. So I guess, overall, there 17 was a processing problem. 18 Q. Were the employees that were laid off exclusively 19 working on this campaign? 20 A. Actually, no, they weren't. Because, quite frankly, 21 we were trying to generate revenue on this campaign. So we 22 looked throughout the organization for individuals that we 23 could afford to lose in other areas. That included MIS 24 areas -- you know, all the way around the board. 25 Administrative areas as well as production.</p>	<p style="text-align: right;">Page 32</p> <p>1 So we were expending a great number of resources on labor and 2 products and processes and services that we didn't anticipate 3 in the beginning given the representations, and that was 4 causing a significant cash flow problem. 5 Q. Are you aware of who, on behalf of the Defendants, 6 communicated to Delaware Marketing Partners that their -- 7 that the Defendants had made the decision not to pay Delaware 8 Marketing Partners for its services? 9 A. I have -- I have no information on that, no. I 10 wasn't involved in any discussions. 11 Q. Are you aware of any communications between anyone 12 on behalf of the Defendants and Delaware Marketing Partners, 13 as the campaigns were ongoing, concerning the amount of 14 wires -- I'm sorry, the amount of money that was wired from 15 Brazos to Creditron? 16 A. I believe I've seen, maybe in the Defendants' 17 discovery, e-mails. But, I mean, I had no personal -- I have 18 no personal information on that. I may have seen -- I 19 believe I saw one e-mail where Mrs. Cavotto had made a 20 comment to Allen that we received 152,000 and payroll was 21 more than that. But that's -- I mean, that's the extent of 22 it. 23 Q. Prior to the litigation, just in connection with 24 your responsibilities for Creditron Capital Corporation, were 25 you aware of any communications between the Defendants and</p>
<p style="text-align: right;">Page 31</p> <p>1 Q. You said, "Not able to make payroll." Which company 2 was not able to make payroll? 3 A. Creditron Financial Corporation. 4 Q. Which was not a party to the marketing agreement, 5 correct? 6 A. Well, Creditron Financial Corporation is the 7 corporation for which Telatron Marketing Group is a 8 fictitious name. 9 Q. Are you familiar with the federal tax liens that 10 existed with regard to any of the Defendants prior to the 11 start of Campaign No. 1? 12 A. I'm vaguely aware of them. I know they existed, 13 that's about it. 14 Q. Do you know anything about the financial condition 15 of any of the Defendants prior to the start of Campaign 1? 16 A. No. 17 Q. I'm sorry? 18 A. No, I don't. 19 Q. Is it your testimony that all the financial problems 20 that any of the Defendants had were caused by 21 misrepresentations by Delaware Marketing Partners? 22 A. No. It's my testimony that the misrepresentations 23 by Delaware Marketing Partners led us to believe that this 24 was a different base than it was, and therefore, we incurred 25 a great deal of start-up costs that we did not anticipate.</p>	<p style="text-align: right;">Page 33</p> <p>1 Delaware Marketing Partners as to amounts that were being 2 received from Brazos? 3 A. Yeah. I believe that Mrs. Cavotto had provided 4 Brian and Harry with a spreadsheet in November of 2003 that 5 would have outlined that information. 6 Q. I'm going ask Doug to hand you what's been stamped 7 Pages 250, 251, and 252. Please let me know when you have 8 that. 9 A. I have it. 10 Q. The third page, which is No. 252, is that the 11 document you're referring to? 12 A. It is. Yes, it is. 13 Q. What's your understanding of the column, "Paid ALC"? 14 What do those numbers represent? 15 A. Apparently what was paid to ALC, I assume, by 16 Brazos. 17 Q. Still looking at that same page, 252, you'll see on 18 the left-hand column it says, "2003," and then it says, 19 "January." Do you see that? 20 A. Yes, I do. 21 Q. And it indicates \$154,780.28 was paid by Brazos to 22 ALC, correct? 23 A. That's what it says. 24 Q. Do you know whether that's correct? 25 A. I know it's not correct.</p>

<p style="text-align: right;">Page 34</p> <p>1 Q. Do you know why Delaware Marketing Partners was 2 informed that \$154,780 was received? 3 A. I have no idea. And I don't know how this 4 spreadsheet was created, what information was used to create 5 it. I know that the document that was provided to you in 6 discovery was created using the actual wire transfers that we 7 received from Brazos. So, therefore, I know that to be a 8 correct number. 9 Q. And you're aware that there are other numbers in 10 that same paid ALC column that are incorrect, right? 11 A. Yes, I am. 12 Q. Have you ever told Joyce Cavotto that they were 13 incorrect? 14 A. Yes, I did. 15 Q. When did you tell her? 16 A. On Friday. 17 Q. What did she say? 18 A. She said that this was never meant to be a corporate 19 document. That it was something she generated from her 20 e-mails of information received from financial control,</p>	<p style="text-align: right;">Page 36</p> <p>1 decision was made not to pay them. I can assume it was 2 because we received \$5,000 and our cost for payroll was more 3 than that. I mean, that's the only information I have. 4 MR. SNYDERMAN: Let's mark Page 249 as 5 Desanti-Boehm 3, if I'm not losing track. 6 MR. GRIMSLEY: Did you want to mark 250 as well? 7 MR. SNYDERMAN: I'm sorry? 8 MR. GRIMSLEY: Did you want to mark 250 through 252 9 as an exhibit as well? You haven't marked that one 10 yet. 11 MR. SNYDERMAN: Why don't we do it. Why don't we 12 make that Desanti-Boehm 4. 13 MR. GRIMSLEY: So 249 will be Exhibit 3, and 250 to 14 252 will be Exhibit 4. 15 (Desanti-Boehm Deposition Exhibit Nos. 3 and 4 16 marked for identification.) 17 MR. SNYDERMAN: Correct. 18 Q. I'm going to ask Doug to give you a document which 19 consists of Pages 283 to 288. Do you have that? 20 A. I do.</p>
<p>21 and -- she never intended it to be a corporate document, and 22 that she had told Delaware Marketing that during the course 23 of the conversation they had sometime in November. 24 Q. Going back to Desanti-Boehm 1. In October of 2002, 25 when I add the first two amounts together, I get \$6,081.78.</p>	<p>21 Q. This is a document from Brazos to Academic Lending 22 Center about funds that were going to be wired to Academic 23 Lending Center, or, I should say, Creditron, correct? 24 A. I assume that's what it is. I'm sorry, can you give 25 me a minute.</p>
<p style="text-align: right;">Page 35</p> <p>1 Do you know whether or not Delaware Marketing Partners was 2 paid 28.57 percent of those funds? 3 A. Well, if I look at the -- I have no idea what they 4 were paid in the month of October off the top of my head. I 5 mean, if I look at this spreadsheet, I can assume that they 6 weren't, but I know the spreadsheet is not accurate. So I'm 7 not going to use that for my basis. 8 Q. I'm going to ask Douglas to hand you what's been 9 stamped Page 249. Let me know when you have that. 10 A. I have it. 11 Q. Does that help you answer the question? 12 A. It does. 13 Q. What's the answer to the question? 14 A. They were not paid anything in October. 15 Q. Do you know why? 16 A. I don't. 17 Q. Do you know what work and services that Delaware 18 Marketing Partners was obligated to perform as a condition 19 precedent to their receiving 28.5 percent of the funds that 20 Academic Lending Center received in October of 2002? 21 A. It would have been the items that I had previously 22 identified. 23 Q. Are you testifying that they had not adequately 24 performed as of October of 2002? 25 A. I'm testifying that I don't know the reason the</p>	<p style="text-align: right;">Page 37</p> <p>1 Q. Are you still reviewing that document? 2 A. Yes. 3 Okay. I'm done reviewing it. 4 Q. Would you agree that it's similar to Desanti-Boehm 5 2? 6 A. Yeah. Yes, it is. 7 Q. Does this document, Pages 283 to 288, look like the 8 document that was received from Brazos indicating an amount 9 of money that was going to be wired? 10 A. It does. I'm not really sure what these documents 11 were used for. I know that these were something that were 12 done early in the stage, but I can't tell you what they 13 pertain to. They're not the actual -- they don't show us 14 actually what we receive from Brazos. So I don't know if 15 it's their invoice, their estimate for us, I have no idea. 16 Q. At the bottom of Page 283, in handwriting, it says, 17 "To IRS." Do you see that? 18 A. I do. 19 Q. Whose handwriting is that? 20 A. I have no idea. It's not mine. 21 Q. Are you familiar with the handwriting of Al Cavotto? 22 A. Yes, I am. 23 Q. Are you able to exclude him as being the person who 24 wrote that? 25 A. I don't think I'm able to exclude anyone but myself.</p>

<p style="text-align: right;">Page 42</p> <p>1 Creditron?</p> <p>2 A. I have no idea where it is. I wouldn't know -- I</p> <p>3 mean, if you're asking specifically what account this is in,</p> <p>4 I wouldn't have that knowledge. I don't get into the minute</p> <p>5 of that. I know it wasn't disbursed anywhere else.</p> <p>6 Q. Well, I'm really confused by your answer. You know</p> <p>7 it wasn't disbursed anywhere else. Under the marketing</p> <p>8 agreement, a certain percentage of the money that's received</p> <p>9 from Brazos belongs to Creditron, correct?</p> <p>10 A. Correct.</p> <p>11 Q. And Creditron is going to use its share to, for</p> <p>12 example, make payroll, correct?</p> <p>13 A. Correct.</p> <p>14 Q. And to pay other expenses, correct?</p> <p>15 A. Correct.</p> <p>16 Q. Are you saying that you don't know whether any of</p> <p>17 the money that came into Creditron was used to pay payroll</p> <p>18 and expenses?</p> <p>19 A. It was. I guess that wasn't my understanding of the</p> <p>20 question.</p> <p>21 Q. My question is, we have, according to Desanti-Boehm</p> <p>22 No. 1, \$9,402,739.44 being paid by Brazos to ALC. We have a</p> <p>23 Student Loan Origination and Marketing Agreement that says</p> <p>24 that 71.43 percent of gross revenue is Telatron's and 28.5</p> <p>25 percent of gross revenue is Delaware Marketing. And what I'm</p>	<p style="text-align: right;">Page 44</p> <p>1 assuming, now that we've talked about 1(k), that all of the</p> <p>2 documents that are requested were produced?</p> <p>3 A. I'm sorry, can you repeat the last part of your</p> <p>4 question.</p> <p>5 Q. Can we agree that not all of the books, records,</p> <p>6 writings, and documents which were requested in Interrogatory</p> <p>7 2 were produced?</p> <p>8 A. With respect to (k), I mean, we can agree that they</p> <p>9 weren't produced according to your intent under the question.</p> <p>10 They were produced under -- according to my understanding of</p> <p>11 it at the time.</p> <p>12 Q. Within your authority for the company are you able</p> <p>13 to agree to produce what's being requested in 1(k) and No. 2?</p> <p>14 A. Yes.</p> <p>15 Q. Will you agree to do that?</p> <p>16 A. Sure.</p> <p>17 MR. SNYDERMAN: By the way, Craig, I probably</p> <p>18 should have at the outset -- and I apologize for</p> <p>19 not having done so. It's just that I'm not really</p> <p>20 used to telephone depositions. I should have</p> <p>21 identified that with me in the room are two</p> <p>22 individuals from Delaware Marketing partner, and</p> <p>23 again, I can only apologize for not having done</p> <p>24 that. One is Allen Estes, and the other is Harry</p> <p>25 Metcalfe. Bear with me a moment.</p>
<p style="text-align: right;">Page 43</p> <p>1 asking you is, how would I find out what happened to the --</p> <p>2 this is a long question, so bear with me. How would I find</p> <p>3 out what happened to the 71.43 percent of the gross revenue,</p> <p>4 and what happened to that portion, the 28.57 percent, of the</p> <p>5 gross revenue that was not paid by ALC to Delaware Marketing</p> <p>6 partners?</p> <p>7 A. I have no idea at this point. I mean, I guess we</p> <p>8 could do a -- could provide billing or items of that nature</p> <p>9 that shows what we paid out for, you know, supplies and</p> <p>10 things of that nature. I mean, that's obviously something</p> <p>11 that we possess. But I can't tell you off the top of my head</p> <p>12 where it went.</p> <p>13 Q. And you believe that Joyce Cavotto would know?</p> <p>14 A. I believe she would have an idea, yeah. I mean, I</p> <p>15 can use my -- I can use my knowledge in the program to say</p> <p>16 that we pay for payroll, we paid for processes that had to</p> <p>17 come up, we paid for materials. I mean, so, of course, all</p> <p>18 of those would have been, I guess, under (k), something that</p> <p>19 was disbursed.</p> <p>20 Q. Keeping with the Defendants' Answers to</p> <p>21 Interrogatories, Interrogatory 2, "Produce copies of all</p> <p>22 books, records, writings, and other documents which refer or</p> <p>23 relate in any way to the payments identified in your answers</p> <p>24 to Interrogatories Nos. 1(j) and (k)." And it says, "See</p> <p>25 documents produced herewith." Would I be correct in</p>	<p style="text-align: right;">Page 45</p> <p>1 Q. When we look at Desanti-Boehm 1 and we see all of</p> <p>2 the amounts received by ALC from Brazos, would I be correct</p> <p>3 if I say that you don't have an understanding as to what each</p> <p>4 one of those wires -- why 28.5 percent was not, within 7</p> <p>5 days, paid to Delaware Marketing Partners?</p> <p>6 A. No.</p> <p>7 Q. I'm not correct?</p> <p>8 A. I'm sorry, you are correct. I don't have that</p> <p>9 understanding with respect to each of the wires.</p> <p>10 Q. You may be happy to know that that just shortened</p> <p>11 your deposition time by probably over an hour.</p> <p>12 A. Great.</p> <p>13 Q. Let's go back to the Answer to the Complaint. Do</p> <p>14 you still have access to that?</p> <p>15 MR. MARKHAM: Yes, we have it.</p> <p>16 Q. On Page 3, Paragraph 9, the second sentence states,</p> <p>17 "The amount of compensation which could be earned by the</p> <p>18 Plaintiffs is set forth in an exhibit to the agreement</p> <p>19 entitled Exhibit-001." Could you please tell me, do you have</p> <p>20 the Student Loan Origination and Marketing Agreement there?</p> <p>21 A. I do.</p> <p>22 Q. Would you please tell me where, in Exhibit 1, it</p> <p>23 addresses the amount of compensation.</p> <p>24 A. "Section 4, Allocation of Program Revenue."</p> <p>25 Q. Now, I notice that the word could be earned is in</p>

<p style="text-align: right;">Page 46</p> <p>1 Paragraph 9 of the answer. Do you know why the word "could"</p> <p>2 was chosen?</p> <p>3 A. I guess I don't recall at this moment.</p> <p>4 Q. Having gone to law school, do you understand the</p> <p>5 difference between shall and could?</p> <p>6 A. Yeah. I'm aware of the difference.</p> <p>7 Q. With regard to the 71.43 percent of the remaining</p> <p>8 gross revenues, where it says, "Telatron shall be entitled to</p> <p>9 71.43 percent," do you -- is it your understanding that if</p> <p>10 Delaware Marketing could be entitled to receive or earn 28.5</p> <p>11 percent that Telatron also could be entitled to receive 71.43</p> <p>12 percent as opposed to shall receive it?</p> <p>13 A. I suppose that would be an argument that you could</p> <p>14 make.</p> <p>15 Q. Well, I didn't choose the language in the answer to</p> <p>16 the Complaint. And I'm not trying to be argumentative. I'm</p> <p>17 just trying to ask you whether there's any difference</p> <p>18 between -- in this exhibit. A difference between the</p> <p>19 entitlement of Delaware Marketing to a share and the</p> <p>20 entitlement to Telatron of a share.</p>	<p style="text-align: right;">Page 48</p> <p>1 the loan financing process." Does that refer to anything</p> <p>2 other than what you've already testified to?</p> <p>3 A. I think I gave a brief overview of our</p> <p>4 understanding, but basically it -- it pertains to the fact</p> <p>5 that we were led to believe that this was a very simple</p> <p>6 process. That -- I believe that the initial number that was</p> <p>7 given to us was 50 to 60 percent of promissory notes were</p> <p>8 returned, and that's not accurate. It was nowhere near that</p> <p>9 at any point in the program, or now, as we do it on our own.</p> <p>10 We were told it was very simple, you get the list, you take</p> <p>11 the application, 50 to 60 percent of the time you get the</p> <p>12 application back. By law the applications have to be back</p> <p>13 within 10 days. You know, done deal. And that is absolutely</p> <p>14 not how the process works. Theoretically, point by point,</p> <p>15 that's how the process works, but there's a huge amount of</p> <p>16 work that goes into each and every one of those components</p> <p>17 that we were not aware of.</p> <p>18 Q. Are you familiar with Al Cavotto's prior experience</p> <p>19 with student loans?</p> <p>20 A. No. All I -- I mean, all I really know is that he</p>
<p>21 MR. MARKHAM: Let me say, the witness didn't choose</p> <p>22 the language in the Complaint either, and she</p> <p>23 doesn't recall why it was used. If you're using</p> <p>24 that as a reference, I don't think she can answer</p> <p>25 the question.</p>	<p>21 managed, you know, certain portfolio's for a bank, and I</p> <p>22 think within there they had PHEAA loans as one of their</p> <p>23 portfolios, but other than that, I know nothing about it.</p> <p>24 And those were -- I'm sorry, those were PHEAA origination --</p> <p>25 origination loans. They weren't consolidations.</p>
<p style="text-align: right;">Page 47</p> <p>1 MR. SNYDERMAN: Let me ask her.</p> <p>2 Q. Can you answer the question?</p> <p>3 A. No, I can't.</p> <p>4 Q. Also in Paragraph 9 of the answer it states, "It was</p> <p>5 specifically denied that the Plaintiff has properly performed</p> <p>6 all of its obligations and duties in this regard." Can you</p> <p>7 tell me whether this sentence refers to anything other than</p> <p>8 the obligations that you listed for me before based on the</p> <p>9 agreement?</p> <p>10 A. No. The simple summation I gave you previously</p> <p>11 would encompass that statement.</p> <p>12 Q. Then it goes on to say, "Moreover, the Plaintiff is</p> <p>13 also responsible for a share of start-up and other costs</p> <p>14 which are detailed in the agreement as in Exhibit-001." Can</p> <p>15 you please show me where in the agreement those start-up</p> <p>16 expenses and costs are detailed?</p> <p>17 A. That would be Section 4B.</p> <p>18 Q. Are there any other start-up expenses or costs other</p> <p>19 than 142,850 that Delaware Marketing Partners was responsible</p> <p>20 for?</p> <p>21 A. There were certainly more start-up expenses than the</p> <p>22 142,000, but I believe that's what we agreed at that moment</p> <p>23 in time that they would be responsible for.</p> <p>24 Q. Then it says, "Furthermore, as an inducement to</p> <p>25 Defendants, the Plaintiff misrepresented material aspects of</p>	<p style="text-align: right;">Page 49</p> <p>1 Q. In that August 20, 2002 letter that you referred to</p> <p>2 earlier, Mr. Cavotto refers to four of our lending officers</p> <p>3 worked with me at a national lending organization. Do you</p> <p>4 know who those lending officers are?</p> <p>5 A. The only one -- well, I know Mary Frick worked with</p> <p>6 him, and I don't know if that's who he was assuming that to</p> <p>7 be. She works in my credit department. Doesn't have any</p> <p>8 knowledge, but I know one of the four individuals was John</p> <p>9 Pochatko who worked with Mr. Cavotto for, I think, 20 years</p> <p>10 at the bank.</p> <p>11 Q. How do you spell that gentleman's last name?</p> <p>12 A. It's P-O-C-H-A-T-K-O. He is now deceased.</p> <p>13 Q. The last sentence of Paragraph 9 of the answer says,</p> <p>14 "As a result, Defendants incurred a substantial increase in</p> <p>15 the expected cost and financial burden." What information do</p> <p>16 you have about the increase in costs and burden?</p> <p>17 A. I don't think I can speak to exact numbers. In</p> <p>18 fact, I know I can't speak to exact numbers. But I certainly</p> <p>19 know what we had to do going into September. In fact, I was</p> <p>20 removed from my job at the current time, which was running</p> <p>21 the human resources department, to take over the back end</p> <p>22 operations because, quite frankly, we were drowning. So we</p> <p>23 had to implement a number of programs and services and</p> <p>24 additional calling teams to focus on getting borrowers to</p> <p>25 return notes that we were told would return 50 to 60 percent</p>